

Practitioner's Docket No. NAI1P011/01.116.01

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED  
CENTRAL FAX CENTER

In re application of: James S. Magdych et al.

MAY 13 2005

Application No.: 09/895,508

Group No.: 2136

Filed: June 29, 2001

Examiner: Cervetti, D.

For: NETWORK-BASED RISK-ASSESSMENT TOOL FOR REMOTELY DETECTING LOCAL  
COMPUTER VULNERABILITIES

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTICE OF APPEAL FROM THE PRIMARY EXAMINER  
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES  
(37 C.F.R. § 41.31)

Applicant hereby appeals to the Board from the decision of the Primary Examiner, mailed March 1, 2005, for a second time rejecting claims 1, 4-6, 9-12, 15-17, and 20-35.

## 1. STATUS OF APPLICANT

This application is on behalf of other than a small entity.

05/16/2005 HDNESS1 00000028 501351 09895508

01 FC:1401 500.00 DA

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\*  
(When using Express Mail, the Express Mail label number is *mandatory*;  
*Express Mail certification is optional.*)

I hereby certify that, on the date shown below, this correspondence is being:

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37 C.F.R. § 1.8(a)

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37 C.F.R. § 1.10\*

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## TRANSMISSION

\_ facsimile transmitted to the Patent and Trademark Office, (703) 772-9306

Date: 5/13/2005

Signature

Erica L. Farlow  
(type or print name of person certifying)

\* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(j). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Notice of Appeal from the Primary Examiner to Board--page 1 of 2

**2. FEE FOR FILING NOTICE OF APPEAL**

Pursuant to 37 C.F.R. § 41.20(b)(1), the fee for filing the Appeal Brief is:

Other than a small entity \$500.00

Notice of Appeal fee due \$500.00

**3. EXTENSION OF TERM**

The proceedings herein are for a patent application and the provisions of 37 C.F.R.1.136 apply.

Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

**4. TOTAL FEE DUE**

The total fee due is:

Notice of Appeal fee \$500.00

**TOTAL FEE DUE \$500.00**

**5. FEE PAYMENT**

Authorization is hereby made to charge the amount of \$500.00 to Deposit Account No. 50-1351 (Order No. NA11P011).

Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this transmittal is attached.

**6. FEE DEFICIENCY**

If any additional extension and/or fee is required, and if any additional fee for claims is required, charge Deposit Account No. 50-1351 (Order No. NA11P011).

Reg. No.: 41,429  
Tel. No.: 408-971-2573  
Customer No.: 28875

\_\_\_\_\_  
Signature of Practitioner  
Kevin J. Zilka  
Zilka-Kotab, PC  
P.O. Box 721120  
San Jose, CA 95172-1120  
USA

Notice of Appeal from the Primary Examiner to Board--page 2 of 2

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**CENTRAL FAX CENTER****MAY 13 2005****FAX COVER SHEET**

<b>Date:</b> May 13, 2005	<b>Phone Number</b>	<b>Fax Number</b>
<b>To:</b> Examiner David Cervetti		(703) 872-9306
<b>From:</b> Kevin J. Zilka		

**Docket No.:** NA11P011/01.116.01**App. No: 09/895,508****Total Number of Pages Being Transmitted, Including Cover Sheet: 05****Message:**

Please deliver to Examiner David Cervetti.

Thank you,

Kevin J. Zilka

☐ Original to follow Via Regular Mail ☒ Original will Not be Sent ☐ Original will follow Via Overnight Courier

\*\*\*\*\*  
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May 13, 2005